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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/051,439

01/17/2002

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EFFF-1-1001

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25315 7590 05/29/2007  
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EXAMINER

HUYNH, SON P

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

05/29/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/051,439

Applicant(s)

DAVIS ET AL.

Examiner

Son P. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Repeated numbered claim 4 has been renumbered as claim 5. Misnumbered claims 5-19, 21 have been renumbered as 6-21; misnumbered claims 20, 21 (repeated), 22-37 have been renumbered as 22-39.

Claims' dependencies have been changed according to renumbered claims.

The following rejections are based on renumbered claims.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, renumbered claims 5-17, 19-36, 38 are rejected under 35

U.S.C. 102(e) as being anticipated by Dunning et al. (US 2002/0082901 A1) –  
hereinafter referred to as Dunning.

Regarding claim 1, Dunning discloses a computer-based method for automatically updating a distribution list for each of a plurality of digital jukeboxes (updating a list of tracks or artists or album distributed to each of a plurality of jukeboxes 103 according to user behaviors/activities – see include, but are not limited to, figures 1a-3, 9, 16, paragraphs 0044-0046, 0085-0086, 0117-0123, 0207-0228), the method comprising:

generating and storing a distribution list for each of the plurality of digital jukeboxes (generating and storing a list of recommendations/suggestions/tracks/artists for each of the plurality of jukeboxes 103 – see include, but are not limited to, paragraphs 0144-0148, 0152, 0208);

receiving feedback information from each of the plurality of digital jukeboxes over a network connections (receiving explicit and implicit references including collected user behaviors from jukeboxes 103 – see include, but are not limited to, figures 1a-3, 16, paragraphs 0085-0086, 0106-0111, 0115-0117, 0123);

automatically updating the distribution lists previously stored for each of the plurality of jukeboxes based on the received feedback information (see include, but are not limited to, paragraphs 0207-0208, 0254).

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Regarding claim 2, Dunning discloses a method as discussed in the rejection of claim 1.

Dunning further discloses the received feedback information includes values for predetermined relationships between media components stored in the jukeboxes (the feedback information includes values/information/data points for predetermined relationships between songs stored in the jukeboxes such as how many times a track/song stored in the jukebox has played, whether the track is aborted/skipped/deleted, etc. – see include, but are not limited to, paragraphs 0009, 0046, 0085-0086, 0108, 0115, 0140, 0133, 0148, 0150, 0254, 0257, 0273).

Regarding claim 3, Dunning discloses a method as discussed in the rejection of claim 2.

Dunning further discloses the media components comprise songs/tracks (see include, but are not limited to, paragraphs 0273, 0044).

Regarding claim 4, Dunning discloses a method as discussed in the rejection of claim 2.

Dunning further discloses the media components comprise at least one of audio files, video files, graphical images, or multi-media animation (see include, but is not limited to, paragraphs 0086, 0324).

Regarding renumbered claim 5, Dunning discloses a method as discussed in the rejection of claim 2. Dunning further discloses the values for the relationships between the media components are determined according to jukebox events (e.g. track

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selection, repeats, aborts and skips, and the like – see include, but are not limited to, paragraphs 0108, 0117, 0133, 0140).

Regarding renumbered claim 6, Dunning further discloses the jukeboxes events include at least one of media components selected by the same user, (repeats selections), media components canceled on a jukebox (aborted or deleted) – see include, but are not limited to, paragraphs 0108, 0117, 0133, 0140, 0257, 0273).

Regarding renumbered claim 7, Dunning further discloses the relationship value associated with media component selected by the same user has a first value (interpreted any value/information/data point associated with track selections/repeat selections of the same user – see include, but are not limited to, paragraphs 0108, 0117, 0133, 0140, 0257, 0273).

Regarding renumbered claim 8, Dunning further discloses the relationship value associated with media components selected on the same jukebox within a set period of time has a second value (interpreted as any value/information/data point associated with repeat selections at a jukebox within any predetermined period of time such as period of time for uploading play log to play log database, or time period associated with a rule – see include, but are not limited to, 0108, 0117, 0133-0134, 0140, 208, 0257, 0273).

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Regarding renumbered claim 9, Dunning further discloses the relationship value associated with media components deleted by the venue owner or jukebox operator has a third value (interpreted as any value/information associated with song/track deleted/aborted by user of the jukebox – see include, but are not limited to, 0046, 0108, 0117, 0133, 0140, 208, 0257, 0273).

Regarding renumbered claim 10, Dunning further discloses the third value is a negative number (e.g., negative data points may be extracted, based on user aborting/deleting track – see include, but are not limited to, paragraph 0046).

Regarding renumbered claim 11, Dunning further discloses the received feedback information includes a value for predetermined relationships between each of the artists that have media components stored in the jukeboxes (see include, but are not limited to, paragraphs 0085, 0087, 0106-0107, 0111, 0115, 0133, 0144, 0151-0152, 0210-0212, 0250, 0253).

Regarding renumbered claim 12, Dunning further discloses the values for the relationships between each of the artists are determined according to jukebox events (e.g., selection/repeat selection, aborting/deleting, skipping, etc. of track/song/artist - see include, but are not limited to, paragraphs 0046, 0085, 0087, 0106-0108, 0111, 0115, 117, 0133, 140, 0144, 0151-0152, 208, 0210-0212, 0250, 0253, 0257, 0273)

Regarding renumbered claim 13, Dunning further discloses the jukebox events includes at least one of artist selected by the same user, artist deleted by at least one of the venue owner or jukebox operators (directly or indirectly such as artist associated with selected song) – see discussed in the rejection of renumbered claim 6 above and paragraphs 0085, 0087, 0106-0107, 0111, 0115, 0133, 0144, 0151-0152, 0210-0212, 0250, 0253.

Regarding renumbered claim 14, Dunning further discloses sending media components to the jukebox based on the updated distribution list (see include, but are not limited to, paragraphs 0085-0086, 0111, 0113, 0121, 0208, 0323-0324).

Regarding renumbered claim 15, Dunning further discloses sending at least one of graphics, text, or video associated with the sent media components to the jukebox based on updated distribution list (e.g., sending track title, track number, etc. with the media component/track/song – see include, but are not limited to, figures 12, 17a, paragraphs 0087, 0121).

Regarding renumbered claim 16, Dunning further discloses feedback information such as track title, track number, or number of selections, etc. is provided to server/service provider (including operator) so that the owner/operator applies charge to the user for track selection or updating suggestions/recommendation list, etc., window 307 retrieves user profile information from database 112 and provides recommendations for tracks and/or



artist based on user to track or user to artist mapping— see include, but are not limited to, 0085-0086, 111-113, 0120, 0123, 140, 0146). Dunning further user expressed preferences of particular artists, genres, and the like which may be collected from the user by online survey are stored in personal criteria 111 for used to generates recommendations/suggestions of media components (paragraphs 0107, 111-113).

Thus, at least a portion of the feedback information is inherently provided for viewing by one or more artists, venue owner, and jukeboxes operators (for example, the operator, or jukebox user) so that a charge to track selection is applied, or a recommendations list, item, is generated based on the feedback including user selection/aborting, etc. or interpreted as the a portion of feedback including expressed preferences of particular artists, genres, etc. is provided for viewing by the jukebox user before it is stored in personal criteria 111).

Regarding renumbered claim 17, Dunning further discloses providing at least a portion of the feedback information for viewing comprises providing at least a portion of the feedback information for viewing at a remote computer (e.g., server, or service provider) over a network connection (see discussed in the rejection of renumbered claim 16, and figure 1A).

Regarding renumbered claim 19, the limitations of the system as claimed correspond to the limitations of the method as claimed in claim 1, and are analyzed as discussed with respect to the rejection of claim 1 (see also figures 1A –3, 16).

Regarding renumbered claims 20-21, the additional limitations of the system as claimed correspond to the additional limitations of the method as claimed in claims 2, 4, and are analyzed as discussed with respect to the rejections of claims 2, 4.

Regarding renumbered claims 22-30, 32-33, the additional limitations as claimed correspond to the additional limitations as claimed in renumbered claims 5-13, 15, 14, and are analyzed as discussed with respect to the rejections of renumbered claims 5-13, 15, and 14.

Regarding renumbered claim 31, Dunning further discloses the multimedia content is music (see discussed in the rejection of renumbered claim 14).

Regarding renumbered claim 34, Dunning further discloses a media entering means for entering media components and associated media files into the system and for making the entered media components and associated media files available for the media distribution means (means for entering new content such as new tracks/song, etc. and track title, artist name, etc. into content database of the system and making the entered songs/tracks and associated media files such as track number, song title, etc. available for the media distribution system for delivering to the jukebox – see include, but are not limited to, figures 1a-3, 10A, 16, paragraphs 0087, 0090, 0205).

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Regarding renumbered claim 35, Dunning further discloses the media entering means includes a receiving device for receiving media components and associated media files from a remote location (e.g., location where artist provides song/track) over the network (network coupled to import tool 1008, relationships import tool 1011, content import tool 1007, etc. -(see include, but are not limited to, figure 10A, paragraphs 0205-0206).

Regarding renumbered claim 36, Dunning further discloses the media files are formatted in at least MP3 (0113).

Regarding renumbered claim 38, Dunning further discloses a web page means for generating a web page accessible by a computer coupled to a network connection, the web page includes at least a portion of the feedback (see include, but are not limited to, figures 1A, 10A, paragraphs 0205, 0146, 0196-0206).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Renumbered claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunning as applied to renumbered claim 35 above.

Regarding claim 37, Dunning discloses a system as discussed in the rejection of renumbered claim 35. However, Dunning does not explicitly disclose the associated media files are formatted in at least one of a JPEG, PNG, or GIF file format. Official Notice is taken that formatting associated media files in at least one of a JPEG, PNG, or GIF file format is well known in the art. For example, formatting album cover or visual portion of an album, or song, or picture of artist in JPEG or GIF. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dunning to incorporate the well-known teaching of formatting associated media files in at least one of JPEG, PNG, or GIF in order to enhance information associated with the media file, thereby allow the user to select desired content accurately.

6. Renumbered claims 18 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunning as applied to renumbered claim 1 or renumbered claim 19 above, and in view of Gaudian (US 2001/0025255).

Regarding renumbered claim 18. Dunning discloses a method as discussed in the rejection of claim 1. Dunning further discloses the artist provides media component for storing at the server and distributing to the user (paragraph 0205). A feedback are

provided to the server/provider and the server/provider charges the user based on the feedback information – see include, but are not limited to, paragraphs 0112, 0121,0134). However, Dunning does not explicitly disclose determining artist compensation based on the feedback.

Gaudian discloses content providers receives compensation for the use of their content on the connectcast system (see include, but is not limited to, paragraph 0050) is read on determining artist compensation based on the feedback information. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Dunning with the teaching as taught by Gaudian in order to provide an alternative way to pay content provider.

Regarding renumbered claim 39, the additional limitations correspond to the additional limitations as claimed in renumbered claim 18, and are analyzed as discussed with respect to the rejection of claim 18.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Martin et al. (US 6,970,834 B2) discloses advertisement downloading computer jukebox.

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Nathan et al. (US 2003/0031096 A1) discloses intelligent digital audiovisual reproduction system.

Pontenzone et al. (US 2002/0152278 A1) discloses system for managing content delivered over a network.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

May 22, 2007

A handwritten signature in black ink, appearing to read 'am2' with a long horizontal stroke underneath.